

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARRYLYN BLINCOE,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION and
JANE ULVAN,

Defendants.

CASE NO. C03-2558C

ORDER

This matter has come before the Court on Defendants' motion for summary judgment (Dkt. No. 55). The matter was originally noted for hearing on July 8, 2005, but was continued by stipulation of the parties to August 5, 2005, so that Plaintiff could have an opportunity to respond. Plaintiff has not yet responded in substantive fashion to Defendant's motion.

Local Rule CR 7(b)(2) provides that a party's failure to file an opposition to a motion may be considered by the Court as an admission that the motion has merit. Defendant's motion could be granted for this reason alone. In addition to this rule, however, is the extensive record in this case of Plaintiff's inability to substantiate her claims in any way.

Rule 56 of the Federal Rules of Civil Procedure governs summary judgment motions and provides in relevant part that "[t]he judgment sought shall be rendered forthwith if the pleadings, depositions,

1 answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is
2 no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.”
3 FED. R. CIV. P. 56(c). In determining whether an issue of fact exists, the court must view all evidence in
4 the light most favorable to the non-moving party and draw all reasonable inferences in that party’s favor.
5 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-50 (1986); *Bagdadi v. Nazar*, 84 F.3d 1194, 1197
6 (9th Cir. 1996). A genuine issue of material fact exists where there is sufficient evidence for a reasonable
7 fact-finder to find for the non-moving party. *Anderson*, 477 U.S. at 248. The moving party bears the
8 burden of showing that there is no evidence which supports an element essential to the non-movant’s
9 claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

10 In the case at bar, Defendants have submitted lengthy excerpts from Plaintiff’s deposition in which
11 she acknowledges that she has no evidence to support her claims that Defendants (1) participated in a
12 conspiracy to deprive her of her workers’ compensation, (2) discriminated against her on the basis of her
13 race, and (3) retaliated against her for having filed a workers’ compensation claim. In addition, Plaintiff
14 also acknowledges that she began to feel ill and, indeed, had to leave work early due to stomach pain two
15 days prior to the dates when she alleges she was given contaminated food and drink. For these reasons,
16 the Court does not find that there are any genuine issues of material fact that would preclude a finding for
17 Defendants. Defendant’s motion is therefore GRANTED. Plaintiff’s complaint is hereby DISMISSED
18 with prejudice.

19 The Clerk is directed to enter judgment accordingly.

20 SO ORDERED this 9th day of August, 2005.

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23 UNITED STATES DISTRICT JUDGE
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